

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-697-C - ORDER NO. 94-477✓
MAY 27, 1994

IN RE: Application of Capital Network)	ORDER
System, Inc. for a Certificate of)	APPROVING
Public Convenience and Necessity)	CERTIFICATE
to Resell Intrastate InterLATA)	
Telecommunications Services Including)	
the Provision of Operator Services in)	
South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Capital Network System, Inc. (Capital or the Company or the Applicant) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services, including the provision of operator services, in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-8-280 (Supp. 1992) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Capital to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Capital's Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding.

Capital complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were filed by Southern Bell Telephone and Telegraph Company (Southern Bell)¹ and the South Carolina Department of Consumer Affairs (the Consumer Advocate). By letter dated May 16, 1994, the Consumer Advocate informed the Commission that he is satisfied that the services offered by the Applicant are consistent with services approved by the Commission in prior dockets, and, therefore, the Consumer Advocate does not wish to participate in any hearing scheduled in this matter.

James Meadows, Director of Government Affairs of Capital Network System, Inc., submitted testimony and an affidavit on behalf of the Applicant. Mr. Meadows explained Capital's request for authority. Mr. Meadows stated that Capital is a provider of operator-assisted services and 1+ direct dialed and travel card services. According to Mr. Meadows, Capital seeks to offer its services throughout South Carolina. Mr. Meadows stated that Capital's operator services are designed primarily to originate at locations where users require operator assistance or alternate billing arrangements, such as pay telephones, hotels, motels, and hospitals, and its 1+ services are designed primarily for business and residential customers.

Mr. Meadows testified that Capital has not heretofore

1. Southern Bell subsequently moved to withdraw its Intervention in this Docket and was allowed to withdraw its Intervention by Order No. 94-429, dated May 12, 1994.

provided intrastate telecommunications service within the state of South Carolina. Mr. Meadows also described Capital's customer service response. Mr. Meadows stated that Capital does not provide or intend to provide any 900 telecommunications services in South Carolina. Mr. Meadows also offered that Capital has the necessary managerial, technical, and financial resources and ability to provide the services for which authority is sought. Mr. Meadows also stated that Capital will abide by the Commission's Rules and Regulations. Mr. Meadows also testified that the issuance of a Certificate of Public Convenience and Necessity to Capital would be in the public interest as it will increase competition thereby ensuring a wide variety of services and prices, promoting efficient use of the network, and expanding the tax base and revenue services for the state.

After full consideration of the applicable law, the Company's Application, and the testimony and affidavit presented by the Company, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Capital is incorporated under the laws of the State of Texas, and is authorized to transact business in the State of South Carolina as a foreign corporation by the Secretary of State.
2. Capital operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.
3. Capital has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Capital to provide intrastate service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Capital for its resale services which includes only maximum rate levels for each tariff charge. For intrastate interLATA "0+" collect and calling card calls, Capital may not impose a fixed operator service charge more than the intrastate charges then currently approved for AT&T Communications, and for the usage portion of the call, Capital may not charge more than the intrastate rates charged by AT&T Communications at the time such call is completed. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Capital shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Capital shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes.

However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1993).

4. Capital shall file its tariff and an accompanying price list to reflect the Commission's findings within thirty (30) days of the date of this Order. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

5. Capital should be allowed to incorporate in its tariff a surcharge for operator-assisted and calling card calls not to exceed \$1.00 for calls originated at hotels and motels and at customer-owned pay telephones only if the property owners have not added a surcharge already. That is, the Company may not impose an additional surcharge to calls originating at hotels and motels and customer-owned pay telephones if such a surcharge has already been imposed by the property owners. If such a charge is applied, however, it should be paid in its entirety to the customer by the Company. Further, if the surcharge is applied, the user should be notified of imposition of the surcharge. This notification should

be included in the information pieces, such as tent cards or pay telephone stickers, identifying the Company as the operator service provider for pay telephones and guest phones.

6. Capital is required to provide "tent" cards to hotels and motels for placement next to guest telephones and stickers to customer-owned pay telephones identifying it as the provider of operator service for intrastate interLATA distance calls. Capital is required to brand all calls identifying itself as the carrier for the motel or hotel. The information pieces shall be consistent with the format approved by the Commission in Order No. 93-811, issued in Docket No. 92-557-C.

7. For the provision of operator services, Capital shall comply with the Operator Service Provider Guidelines approved in Order No. 93-534, issued in Docket No. 93-026-C.

8. Capital is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

9. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if they so desire.

10. Capital shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. Capital shall notify the Commission, in writing, of the identity of its underlying carrier(s). If Capital changes underlying carriers, it shall notify the

Commission in writing.

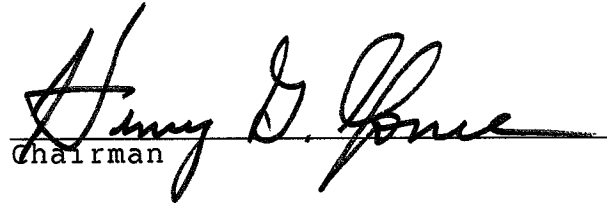
11. Capital shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

12. Capital shall file quarterly financial reports consistent with the form required to support its Application with the Commission. If Capital's quarterly financials reflect the same trend that was evident at the time of certification for two consecutive quarterly periods (i.e. weak financial performance by the Applicant), the Commission will require the Applicant to appear before it for further consideration. At such time as quarterly filings indicate a strengthening or profitable financial performance, the Commission may reduce the filing requirement.

13. Further, Capital shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION.


chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS

FOR INTEREXCHANGE COMPANIES AND AOS'S

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION, MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE).